United Nations A/63/PV.39

General Assembly

Sixty-third session

Official Records

39th plenary meeting
Thursday, 6 November 2008, 10 a.m.
New York

President: Mr. D'Escoto Brockmann ..... (Nicaragua)

The meeting was called to order at 10.15 a.m.

Agenda item 103 (*continued*)

Election to fill vacancies in principal organs

(c) Election of five members of the International Court of Justice

Memorandum by the Secretary-General (A/63/186)

List of candidates (A/63/187 and Add.1 and 2)

Curricula vitae (A/63/188)

The President (*spoke in Spanish*): This morning, the General Assembly will proceed to the election of five members of the International Court of Justice for a nine-year term of office commencing on 6 February 2009. The terms of office of the following judges expire on 5 February 2009: Mr. Ronny Abraham (France), Mr. Awn Shawkat Al-Khasawneh (Jordan), Ms. Rosalyn Higgins (United Kingdom of Great Britain and Northern Ireland), Mr. Gonzalo Parra-Aranguren (Bolivarian Republic of Venezuela) and Mr. Raymond Ranjeva (Madagascar).

In connection with the election, I should like to bring the following matters to the attention of the members of the General Assembly.

I should like to confirm that, at this time, the Security Council, independently of the General Assembly, is also proceeding to elect five members of the Court. That procedure is in accordance with Article 8 of the Statute of the Court, which provides that "The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court".

Accordingly, the results of the voting in the General Assembly will be communicated to the Security Council only when five candidates have obtained the required majority in the Assembly.

I should also like to draw the attention of the Assembly to the documents relating to the election. Document A/63/186 contains a memorandum by the Secretary-General on the present composition of the Court and the procedure to be followed in the General Assembly and in the Security Council with regard to the election. Documents A/63/187 and A/63/187/Add.1 contain the list of candidates nominated by national groups.

In that connection, the Legal Counsel has informed me that, after the established deadline for nominating candidates, the following additional submissions were received from several national groups, all of which relate to the candidates already nominated by other national groups appearing in documents A/63/187 and Add.1: Ronny Abraham (France) has been nominated also by the national groups of Italy, the Russian Federation and Uruguay; Awn Shawkat Al-Khasawneh (Jordan) has been nominated also by the national groups of Italy, Paraguay and Uruguay; Antônio Augusto Cançado Trindade (Brazil) has been nominated also by the national groups of Chile, El Salvador, Paraguay, Spain and Uruguay; Christopher Greenwood (United

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Kingdom of Great Britain and Northern Ireland) has been nominated also by the national groups of Italy and the Russian Federation; and Abdulqawi Ahmed Yusuf (Somalia) has been nominated also by the national groups of Italy and Uruguay.

I should also like to draw the attention of the Assembly to a note by the Secretary-General, contained in document A/63/187/Add.2, in which he indicates that the national group of Colombia decided to withdraw its nomination of Mr. Rafael Nieto-Navia as a candidate.

The Assembly also has before it document A/63/188, which contains the curricula vitae of the candidates nominated by the national groups.

In accordance with Article 10, paragraph 1, of the Statute of the Court, those candidates who obtain an absolute majority of votes both in the General Assembly and in the Security Council shall be considered as elected.

The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all electors, whether or not they vote or are allowed to vote. The electors in the General Assembly are all 192 Member States. Accordingly, for the present election, 97 votes constitute an absolute majority in the General Assembly.

Pursuant to rule 151 of the rules of procedure of the Assembly, if in the first ballot the number of candidates obtaining an absolute majority is less than five, a second ballot will be held and balloting will continue at the same meeting until five candidates have obtained the required majority.

At its 915th meeting, on 16 November 1960, the General Assembly decided that ballots shall be unrestricted. That decision has been followed consistently.

I should like to bring another matter to the attention of the General Assembly. Cases have arisen in the Security Council in which more than the required number of candidates have obtained an absolute majority on the same ballot. The same also occurred in the General Assembly, at the 44th plenary meeting of the sixtieth session, on 7 November 2005.

Both organs decided to hold a new ballot on all the candidates, and no notification to the President of the other organ was made until only the required number of candidates, and no more, had obtained an absolute majority.

May I take it that the General Assembly agrees to the same procedure should the case arise at this election?

It was so decided.

The President (*spoke in Spanish*): I should like to remind representatives that, pursuant to rule 88 of the rules of procedure,

> "After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of the voting."

Any announcements, including those concerning withdrawals of candidatures, should therefore be made prior to the commencement of the voting process, that is to say, before the announcement of the beginning of the voting process.

We shall now begin the voting process. Ballot papers will now be distributed.

Representatives are requested to use only the ballot papers now being distributed. Only those candidates whose names appear on the ballot papers are eligible. Representatives will indicate the five candidates for whom they wish to vote by placing crosses to the left of their names on the ballot papers. Ballot papers on which more than five names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mrs. Noni Ismi (Brunei Darussalam), Ms. Yuliana Georgieva (Bulgaria), Miss Sheree Chambers (Jamaica), Mr. Paul Ballantyne (New Zealand), Mr. Saidu Dodo (Nigeria) and Ms. Louise Ahlden (Sweden) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 10.35 a.m. and resumed at 12.15 p.m.

The President: The result of the voting is as follows:

Number of ballot papers:	191
Number of invalid ballots:	0
Number of valid ballots:	191

Abstentions:	0
Number of members voting:	191
Required absolute majority:	97
Number of votes obtained:	
Mr. Antônio Augusto Cançado Trindade (Brazil)	163
Mr. Christopher Greenwood (United Kingdom of Great Britain and Northern Ireland)	157
Mr. Ronny Abraham (France)	152
Mr. Awn Shawkat Al-Khasawneh (Jordan)	151
Ms. Miriam Defensor-Santiago (Philippines)	106
Mr. Abdulqawi Ahmed Yusuf (Somalia)	92
Mr. Maurice Kamto (Cameroon)	81
Mr. Sayeman Bula-Bula (Democratic Republic of the Congo)	23

The following five candidates have obtained an absolute majority in the General Assembly: Mr. Ronny Abraham, Mr. Awn Shawkat Al-Khasawneh, Mr. Antônio Augusto Cançado Trindade, Ms. Miriam Defensor-Santiago and Mr. Christopher Greenwood.

I have communicated the result of the voting to the President of the Security Council.

I have also received a letter from the President of the Security Council, which reads:

(*spoke in Spanish*)

> "I have the honour to inform you that at the 6011th meeting of the Security Council, held on 6 November 2008, for the purpose of electing five members of the International Court of Justice for a term of office beginning on 6 February 2009, Mr. Ronny Abraham, Mr. Awn Shawkat Al-Khasawneh, Mr. Antônio Augusto Cançado Trindade, Mr. Christopher Greenwood and Mr. Abdulqawi Ahmed Yusuf obtained an absolute majority of votes."

(*spoke in English*)

As a result of the independent voting in the Security Council and in the General Assembly, the following four candidates have obtained an absolute majority in both organs: Mr. Ronny Abraham, Mr. Awn Shawkat Al-Khasawneh, Mr. Antônio Augusto Cançado Trindade and Mr. Christopher Greenwood. They are therefore duly elected members of the International Court of Justice to serve for a nine-year term commencing on 6 February 2009. I should like to take this opportunity to extend to them the congratulations of the Assembly on their election.

In accordance with the provisions of article 11 of the Statute of the Court, it will be necessary to hold another meeting to fill the remaining vacancy.

I propose that the present meeting should be adjourned and that the 40th meeting should be held immediately to vote on the remaining vacancy.

The meeting rose at 12.20 p.m.

United Nations A/63/PV.40

General Assembly

Sixty-third session

Official Records

40th plenary meeting
Thursday, 6 November 2008, at 12.20 p.m.
New York

President: Mr. D'Escoto Brockmann ..... (Nicaragua)

The meeting was called to order at 12.20 p.m.

Agenda item 103 (*continued*)

Elections to fill vacancies in principal organs

(c) Election of five members of the International Court of Justice

Memorandum by the Secretary-General (A/63/186)

List of candidates (A/63/187 and Add.1 and Add.2)

Curricula vitae (A/63/188)

The President: As members are aware, one vacancy on the Court remains to be filled. The Assembly will now proceed to vote with respect to the remaining vacancy.

Once again, I should like to remind representatives that, pursuant to rule 88 of the rules of procedure,

> "After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of the voting."

We shall now begin the voting process. Ballot papers will now be distributed.

All the candidates whose names appear on the ballot paper are eligible. The names of the four candidates who have already obtained an absolute majority of votes, that is, Mr. Ronny Abraham, Mr. Awn Shawkat Al-Khasawneh, Mr. Antônio Augusto Cançado Trindade and Mr. Christopher Greenwood, have been deleted from the ballot. May I remind delegations that the name of only one candidate should be marked with a cross. Any ballot paper on which more than one name is marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mrs. Noni Ismi (Brunei Darussalam), Ms. Yuliana Georgieva (Bulgaria), Miss Sheree Chambers (Jamaica), Mr. Paul Ballantyne (New Zealand), Mr. Saidu Dodo (Nigeria) and Ms. Louise Ahlden (Sweden) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 12.35 p.m. and resumed at 1.05 p.m.

The President: The result of the voting is as follows:

Number of ballot papers:	192
Number of invalid ballots:	0
Number of valid ballots:	192
Abstentions:	0
Number of members voting:	192
Required absolute majority:	97
Number of votes obtained:	
Mr. Abdulqawi Ahmed Yusuf (Somalia)	74
Ms. Miriam Defensor-Santiago (Philippines)	71
Mr. Maurice Kamto (Cameroon)	44
Mr. Sayeman Bula-Bula (Democratic Republic of the Congo)	3

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In view of the lateness of the hour, and since no candidate obtained an absolute majority in the previous round of balloting, further balloting will be postponed until 3 o'clock this afternoon.

The meeting was suspended at 1.10 p.m. and resumed at 3.20 p.m. with Mr. Wolfe (Jamaica), Vice-President, in the Chair.

The Acting President: Members will recall that, at the end of the two rounds of balloting conducted this morning, one candidate remained to be elected. The Assembly will now proceed to vote with respect to the remaining vacancy.

Once again, I should like to remind representatives that, pursuant to rule 88 of the rules of procedure,

> "After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of the voting."

We shall now begin the voting process. Ballot papers will now be distributed.

All the candidates whose names appear on the ballot paper are eligible. The names of the four candidates who have already obtained an absolute majority of votes — Mr. Ronny Abraham, Mr. Awn Shawkat Al-Khasawneh, Mr. Antônio Augusto Cançado Trindade and Mr. Christopher Greenwood — have been deleted from the ballot. May I remind delegations that the name of only one candidate should be marked with a cross. Any ballot paper on which more than one name is marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mrs. Noni Ismi (Brunei Darussalam), Ms. Yuliana Georgieva (Bulgaria), Miss Sheree Chambers (Jamaica), Mr. Paul Ballantyne (New Zealand), Mr. Saidu Dodo (Nigeria) and Ms. Louise Ahldén (Sweden) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 3.30 p.m. and resumed at 3.55 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	188
Number of invalid ballots:	0
Number of valid ballots:	188
Abstentions:	0
Number of members voting:	188
Required absolute majority:	97
Number of votes obtained:	
Mr. Abdulqawi Ahmed Yusuf (Somalia)	90
Ms. Miriam Defensor-Santiago (Philippines)	67
Mr. Maurice Kamto (Cameroon)	29
Mr. Sayeman Bula-Bula (Democratic Republic of the Congo)	2

Since no candidate has received an absolute majority in the previous round of balloting, the Assembly will proceed to another unrestricted ballot to fill the remaining vacancy.

Mr. Ileka (Democratic Republic of the Congo) (*spoke in French*): I would like to inform the Assembly that the Democratic Republic of the Congo has decided to withdraw Mr. Sayeman Bula-Bula's candidature. I would like to take this opportunity to express to all the delegations that have supported us our gratitude and appreciation. I would like to call on those delegations to continue to give us their support in order to enable the General Assembly to ensure that the great forms of civilization and the principal legal systems of the world are represented within that august United Nations body, the International Court of Justice.

The Acting President: Members have heard the statement by the representative of the Democratic Republic of the Congo that that delegation no longer wishes their candidate to be considered.

Taking into consideration the statement just made, we shall therefore proceed to the current unrestricted ballot, and the name of Mr. Sayeman Bula-Bula will be deleted from the next ballot paper. Members should remember that, for this round, any vote for Sayeman Bula-Bula will not be counted.

Mr. Cabral (Guinea-Bissau) (*spoke in French*): Would you be kind enough, Sir, to explain to us on the basis of which article and rule you now invite us to proceed as you have suggested? I would be grateful if you could do so, because if I refer, for example, to rule 150 of the General Assembly rules of procedure, it says:

(*spoke in English*)

> "The election of the members of the International Court of Justice shall take place in accordance with the Statute of the Court."

(*spoke in French*)

So I would like to know upon which article you are basing the modus operandi you have just suggested, Sir.

* * *

The Acting President: I apologize for the delay. In response to the point that was raised by my colleague the representative of Guinea-Bissau, I give the floor to the representative of the Secretariat.

Mr. Botnaru (Department for General Assembly and Conference Management): Articles 11 and 12 of the Statute of the International Court of Justice, which govern the procedure for elections, do not make specific reference to the process of the withdrawal of candidates. However, in keeping with the long and well-established practice of the Assembly, in the light of the fact that candidates are nominated by national groups of Member States, the withdrawal of nominations may also occur at any point leading up to the election, in accordance with Article 5 of the Statute of the International Court of Justice.

Since the candidate from the Democratic Republic of the Congo was nominated by one national group — the Democratic Republic of the Congo — its request for withdrawal is certified by the General Assembly and is in accordance with Assembly practice.

Mr. Cabral (Guinea-Bissau) (*spoke in French*): I never wanted to question the sovereign decision of the Democratic Republic of the Congo to withdraw its candidate. That was not my question. But since the representative of the Secretariat has referred to, among others, Article 12, I would like to read out Article 12 of the Statute of the International Court of Justice, which states, in paragraph 1, that:

> "If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance."

Then it refers to the joint conference. That is what Article 12 states. Article 12 does not refer to the sovereign right of a State to withdraw, at its pleasure, its candidate.

The Acting President: I thank the representative of Guinea-Bissau for the clarification. I now give the floor to the representative of the Secretariat.

Mr. Botnaru (Department for General Assembly and Conference Management): I would like to make reference to Article 11 of the Statute of the International Court of Justice, which states:

> "If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place."

The General Assembly is now only in the second meeting. We are not in the third meeting, because during the first meeting we obtained more than the necessary number of candidates that fulfilled the requirement for an absolute majority. That was the first meeting. Then we started the second meeting, and that was announced. The subsequent reconvening was not a new meeting, but a resumed meeting. We are now still in the second meeting. We did not adjourn the meeting in the morning; we closed the first meeting after the first ballot. Now we are still in the second meeting of the Assembly.

The Acting President: I give the floor to Cameroon on a point of order.

Mr. Tommo Monthe (Cameroon) (*spoke in French*): This is not exactly a point of order. I have not heard an answer to the question asked. We had two meetings this morning, because the President opened a first meeting, and he said "The meeting is adjourned" and we had a second meeting. We are now, this afternoon, in the third meeting.

At this third meeting, the voting has not been concluded. As a result, we have used up all our meetings and we are in the situation described by the representative of Guinea-Bissau. We are already in the third meeting. We have reached the end of the third meeting and the vote did not reach a conclusion.

The Acting President: I am afraid that the interpretation of the representative of Cameroon is not correct, but I will allow the representative of the Secretariat to explain in the same manner that it was explained to my colleague from Guinea-Bissau. I give the floor once again to the representative of the Secretariat, who will very carefully explain what has started, what has finished and what has recommenced. I will not attempt to do so.

Mr. Botnaru (Department for General Assembly and Conference Management): Let me read from the President's notes for the 39th meeting, the first plenary meeting held this morning:

> "In accordance with Article 10, paragraph 1 of the Statute of the Court, those candidates who obtain an absolute majority of votes both in the General Assembly and in the Security Council shall be considered as elected.
>
> "Pursuant to rule 151 of the rules of procedure of the Assembly, if in the first ballot the number of candidates obtaining an absolute majority is less than five, the Assembly will proceed ... to a second ballot to fill the remaining vacancies, until five candidates have obtained the required majority."

By way of explanation as to the previous practice, the notes read:

> "At its 915th meeting, on 16 November 1960, the General Assembly decided that ballots shall be unrestricted. That decision has been followed consistently.
>
> "I should like to bring another matter to the attention of the General Assembly. Cases have arisen in the Security Council in which more than the required number of candidates has obtained an absolute majority on the same ballot. The same also occurred in the General Assembly, at the 44th plenary meeting of the sixtieth session, on 7 November 2005.
>
> "Both organs decided to hold a new ballot on all the candidates, and no notification to the President of the other organ was made until only the required number of candidates, and no more, had obtained an absolute majority."

After the first ballot, four candidates — actually, five candidates — obtained the absolute majority. That was one meeting. An exchange between the President of the General Assembly and the President of the Security Council was made. Those four candidates that obtained the absolute majority both in the General Assembly and the Security Council were elected. That meeting was adjourned and such adjournment was announced by the President. I would now like to quote from the President's closing words at the adjournment of the first meeting this morning:

> "In accordance with the provisions of Article 11 of the Statute of the Court, it will be necessary to hold another meeting to fill the remaining vacancy.
>
> "I propose that the present meeting be adjourned and that the 40th meeting should be held immediately to vote on the remaining vacancy."

The meeting was adjourned and the next meeting, the 40th meeting, was reconvened immediately, in parallel between the General Assembly and the Security Council. The Security Council concluded its meeting. The General Assembly did not conclude its 40th meeting, since none of the candidates obtained the necessary absolute majority. We are therefore continuing with the same meeting until one of the delegates obtains an absolute majority.

The Security Council has already held its meeting and, as soon as the Assembly gets five candidates with an absolute majority, the exchange of letters between the President of the Security Council and the President of the General Assembly will occur. If those candidates are the same, then the election is over. If those candidates are not the same, the Assembly and the Council will go into a third meeting. I hope that clarifies the situation.

The Acting President: Having thought we settled the issue, I now reluctantly give the floor to the representative of Guinea-Bissau.

Mr. Cabral (Guinea-Bissau): This matter is a serious one. It is not a joke. I apologize to any delegate here who believes otherwise. It is not joke. We are not asking for the floor or taking it just for the purpose of merely speaking. We are not here to distract or to entertain anybody.

I just want to ask a simple question: which meeting is this? Is this the second meeting? Or is this the third meeting? This is a simple question, after

which we will know where we are. Because if you go back to rule 151 of the rules of procedure of the General Assembly, Sir, it tells you what we should do. I just want to know which meeting this is.

We had the first meeting and we elected four candidates because those four obtained an absolute majority in both the Security Council and in the General Assembly, and they were declared to be elected. Then we had the second meeting. As I understand it, we just had a third meeting. But if that is not the case, please explain it to me. Then, if we have to challenge you, Sir, or the Secretariat, we will. But please, just tell us whether the official record will show that the Secretariat declared that we were in the second or the third meeting. That is all that I am asking.

The Acting President: I just want to ask everybody to remain calm. I assure the representative of Guinea-Bissau that I did not interpret any rules to determine what meetings we were in. I gave the floor to the Secretariat. The representative of the Secretariat did come to explain which meeting we were in.

On the basis of the explanations made by the Secretariat, I thought the representative of Guinea-Bissau was satisfied. Then, at the request of the representative of Cameroon, the Secretariat went back to get the transcript from this morning. I took it that the representative of Cameroon was satisfied with the reading out of that transcript. If that is not the case, I would ask that he so clarify, because I thought that the explanation of the Secretariat had been satisfactory. If not, then we will just continue the meeting until whenever we are able to hold a ballot. As I am merely sitting in for President d'Escoto Brockmann, there is no need to challenge me, please.

Mr. Davide (Philippines): Pursuant to this discussion, I would like to lodge a parliamentary inquiry. Whether this meeting is the first or the second, I am not even sure. But the fact of the matter remains that, under the rules, when there is an inadequate number of candidates who have obtained absolute majorities in the voting, that same meeting may continue by way of different ballots. A distinction must be made between meetings and balloting, so there can be a second balloting, a third balloting, a fourth balloting, still within the first meeting.

Now my inquiry is — and I have here before me the document that was released to us, namely A/63/186 — whether we are still governed by paragraph 11 of that document, which I will now read out:

> "At the 915th plenary meeting of the General Assembly, on 16 November 1960, a procedural discussion was held as to whether rule 94 (then rule 96) of the rules of procedure of the Assembly should be applied in elections to the International Court of Justice. That rule lays down a procedure for restricted ballots in the event that, after the first ballot, the requisite number of candidates have not obtained the required majority. By 47 votes to 27, with 25 abstentions, the Assembly decided that the rule did not apply to elections to the Court and proceeded to elect the requisite number of candidates by a series of unrestricted ballots. That decision has been followed consistently."

I shall continue with paragraph 12 of document A/63/186:

> "Accordingly, if in the first ballot in either the General Assembly or the Security Council, the number of candidates obtaining an absolute majority is less than five, a second ballot will be held and balloting will continue at the same meeting until five candidates have obtained the required majority (rule 151 of the rules of procedure of the Assembly and rule 61 of the provisional rules of procedure of the Council)."

Now, if we apply paragraphs 11 and 12 that I have just read, and assuming that we have approved this — because the same was read by the President this morning, it would appear to me that the same was adopted. What the result would therefore be is that an announcement of the results only for winning candidates cannot be binding, because there should have been an unrestricted second balloting until five candidates had been elected.

That, then, is my point of inquiry, namely, whether that is the rule. It seems that the Philippines is supported by those paragraphs 11 and 12. There cannot be an announcement of four elected members in any round of balloting if five had not obtained the required majority. It is necessary that in any announcement of winning candidates there must be five winners.

The Acting President: With the indulgence of the Assembly, I have been asked by the Secretariat to

suspend the meeting for 10 minutes or so, while they consult with the delegations concerned.

The meeting was suspended at 4.35 p.m. and resumed at 5 p.m.

The Acting President: I call on the representative of the Secretariat for a final, hopefully, clarification, after which I propose to proceed to the balloting.

Mr. Botnaru (Department for General Assembly and Conference Management): As I mentioned earlier, and as the President of the General Assembly was following, we started today with the 39th meeting of the Assembly. The result of the ballot was that five candidates got an absolute majority. The Security Council held its plenary meeting in parallel. Letters from both Presidents were exchanged on the results of the election in the Security Council and those of the election in the General Assembly.

Four candidates were the same in the results of the election in the plenary and in those of the election in the Security Council. The President of the General Assembly announced, as I read out earlier, that since we do not have five candidates that match in the elections in the Security Council and the General Assembly, we will proceed with the second meeting of the Assembly.

The President adjourned the 39th meeting and immediately opened the 40th meeting of the General Assembly. The same was done simultaneously by the Security Council. We proceeded to another ballot. As a result, none of the remaining candidates — we were voting to elect one candidate — got the required absolute majority, 97 votes, though in the Security Council the vote was conclusive.

In order to match the results in the Security Council and the General Assembly, the Assembly has to continue the same meeting to proceed with other ballots. The 40th meeting, in which we are now, should continue until we have a candidate with an absolute majority. After that result, the Presidents of the two bodies will exchange letters and give the names of the candidates. If the result matches, the election is over. If not, the General Assembly will have a third meeting. The Security Council will do the same. That is in accordance with Article 11 of the Statute of the Court:

> "If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place."

If the voting is still inconclusive at the third meeting, or the results at the third meeting in the Security Council and in the General Assembly are not the same, then we shall implement Article 12.

The Acting President: We shall now begin the voting process. Ballot papers will now be distributed.

I give the floor to the representative of Cameroon on a point of order.

Mr. Tommo Monthe (Cameroon) (*spoke in French*): There are two issues. If the same meeting continues and a candidate withdraws, it cannot be the same meeting. That is the first point.

Secondly, when we asked the question, Sir, that you clarified, we asked for the Legal Counsel to come and answer it, so that the issue is fully recorded in the verbatim records and this confusion does not arise again in the future. So ask the Legal Counsel to come and clarify the issue once and for all.

The Acting President: I give the floor to the representative of the Secretariat.

Mr. Botnaru (Department for General Assembly and Conference Management): The practice of the General Assembly, and even in elections in other principal bodies, is that if a Member State withdraws a candidature, it does not mean the Assembly ends the meeting and then starts another meeting. We have this in elections in the Security Council, too. The number of the meeting is the same.

The only difference is that if a Member State withdraws its candidature in the election for the International Court of Justice, all those national groups that recommended that candidate should support the withdrawal of the candidate. Since the candidate of the Member State that requested its candidate be withdrawn was supported only by its own national group, we consider that that is a correct request. No other support is needed, and thus the General Assembly can proceed and withdraw that candidature from the list for the ballot.

The Acting President: We shall now begin the voting process. Ballot papers will now be distributed.

I give the floor to the representative of Cameroon on a point of order.

Mr. Tommo Monthe (Cameroon) (*spoke in French*): I agree with you, Sir, and I ask you to believe that I do not wish to delay this meeting unduly. But the Legal Counsel should come and say all that, so that it appears in the verbatim records. That was my other request.

The Acting President: I would like to point out the lateness of the hour to my friend and colleague. At this point, we do not know if we will be able to obtain an explanation from the Legal Counsel, but it would mean that the meeting would have to be suspended and risk going closer to 6 p.m. But I am in the hands of the Assembly. If you are insisting, it means that the meeting would have to be suspended. So can I appeal to my colleague from Cameroon?

I give the floor to the representative of Guinea-Bissau.

Mr. Cabral (Guinea-Bissau): Please, could the Secretariat just tell us if it is possible or not to satisfy the request made by the representative of Cameroon. We are all very reasonable people here. We just want to know if it is possible to satisfy his request. He has not requested, if my understanding is correct — that is my interpretation of his request — that the Legal Counsel himself come here, but there is a Legal Office. There are very competent people there. Whenever there is a meeting of the General Assembly, and indeed any official meeting of the United Nations, there should be at the disposal of that meeting a legal counsel to guide the proceedings of the meeting.

Now, is it possible to satisfy that request? As to the lateness of the hour, people are paid to work until 6 p.m. at least, and the meeting is still going on here. Is it possible or not? If not, we will accommodate that.

We have a different interpretation of rule 151 of the rules of procedure of the General Assembly. While I have the floor, I shall read it out, just because we are dealing with clever people here.

> "Any meeting of the General Assembly held in pursuance of the Statute of the International Court of Justice for the purpose of electing members of the Court shall continue until as many candidates as are required for all the seats to be filled have obtained in one or more ballots an absolute majority of votes."

Then we are told that this is the second meeting. What about "shall continue"? But please tell us if it possible to have somebody come or not, and then if it is not possible, that is fine with us.

The Acting President: Are there any other requests? If not, I give the floor to the representative of the Secretariat.

Mr. Botnaru (Department for General Assembly and Conference Management): I have just been told that the view of the Legal Counsel of the Secretary-General is reflected in document A/63/186, the memorandum by the Secretary-General, which was cited by Member States. If I may say, not as representative of Legal Affairs, when it says in rule 151 that "Any meeting of the General Assembly held in pursuance ... for the purpose of electing ... shall continue until as many candidates as are required for all the seats to be filled", our understanding is not that it is necessarily the same meeting, because the same one is the third on the elections of the Security Council. That means that we cannot break after one meeting to have a meeting of the General Assembly on something else, and then come back, but that we will continue with meetings of the Assembly until the elections are over. Otherwise, how can we coordinate and be in accordance with Article 11?

At the same time, we have to work simultaneously to synchronize the number of our meetings with the Security Council. Imagine that we are working in the same meeting and we do not send a communication to the Security Council on what has happened here, and we are going with the same candidate — I just cannot imagine the outcome of such a practice. We are following exactly the same practice as in previous years, and the memorandum of the Secretary-General repeats exactly the same as in every year.

The difference, and some delegates raised the issue, is that we have had more ballots during the first meeting. During the last elections, in 2005, at the first ballot there were more candidates with an absolute majority than required. That is why there was another ballot within the same meeting. I hope that that clarifies the situation.

The Acting President: I give the floor to the representative of Cameroon.

Mr. Tommo Monthe (Cameroon) (*spoke in French*): I note that our friend Mr. Botnaru has tried to provide an explanation, but as he is not the Legal Counsel — and, Sir, if you do not want to invite the

Legal Counsel, you can continue — we are not satisfied. He is not the Legal Counsel, and I asked for the Legal Counsel to provide an explanation. He is simply saying that it is already mentioned in the memorandum of the Secretary-General, but if you insist that we continue, that is fine, but I am not happy.

The Acting President: I thank the representative of Cameroon for his understanding. I take it that we can now proceed.

I give the floor to the representative of Benin on a point of order.

Mr. Zinsou (Benin) (*spoke in French*): My delegation has some concerns. We would like to know whether the candidate of the Democratic Republic of the Congo was actually authorized to withdraw his candidature at this state of the proceedings. That is really a point of order.

The Acting President: I give the floor to the representative of the Secretariat.

Mr. Botnaru (Department for General Assembly and Conference Management): Yes, as I explained earlier, it is the sovereign right of Member States to withdraw their candidature, and, as I explained earlier, if the candidate has support from more than one group — from more than its own national group — all other groups should support that proposal. In this case, the candidate is considered withdrawn, and we go ahead. As the candidate has the support of his national group only, the rules are satisfied and we can go ahead with elections.

The Acting President: We shall now begin the voting process. Ballot papers will now be distributed. All the candidates whose names appear on the ballot paper are eligible. The name of the candidate who has withdrawn has been deleted from the ballot.

May I once again remind delegations that the name of only one candidate should be marked with a cross. Any ballot paper on which more than one name is marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mrs. Noni Ismi (Brunei Darussalam), Ms. Yuliana Georgieva (Bulgaria), Miss Sheree Chambers (Jamaica), Mr. Paul Ballantyne (New Zealand), Mr. Saidu Dodo (Nigeria) and Ms. Louise Ahldén (Sweden) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 5.25 p.m. and resumed at 6.05 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	189
Number of invalid ballots:	0
Number of valid ballots:	189
Abstentions:	0
Number of members voting:	189
Required absolute majority:	97
Number of votes obtained:	
Mr. Abdulqawi Ahmed Yusuf (Somalia)	116
Ms. Miriam Defensor-Santiago (Philippines)	52
Mr. Maurice Kamto (Cameroon)	21

Mr. Abdulqawi Ahmed Yusuf of Somalia has obtained an absolute majority in the General Assembly. I have communicated the result of the vote to the President of Security Council. I have received the following letter from His Excellency Mr. Jorge Urbina, President of the Security Council:

> "I have the honour to inform you that at the 6012th meeting of the Security Council, held on 6 November 2008 for the purpose of electing five members of the International Court of Justice for a term of office beginning on 6 February 2009, Mr. Abdulqawi Ahmed Yusuf obtained an absolute majority of votes."

Mr. Abdulqawi Ahmed Yusuf has therefore obtained an absolute majority in both the Security Council and the General Assembly. He is therefore duly elected as a member of the International Court of Justice to serve for a nine-year term commencing on 6 February 2009. I take this opportunity to extend to him the congratulations of the Assembly on his election.

As a result of the independent voting in the Security Council and in the General Assembly, the following five candidates have obtained an absolute majority in both organs: Mr. Ronny Abraham, Mr. Awn Shawkat Al-Khasawneh, Mr. Antônio Augusto Cançado Trindade, Mr. Christopher Greenwood and Mr. Abdulqawi Ahmed Yusuf. I thank the tellers for their assistance.

We have thus concluded this stage of our consideration of sub-item (c) of agenda item 103.

I give the floor to the representative of Cameroon.

Mr. Tommo Monthe (Cameroon) (*spoke in French*): First of all, I would like to warmly congratulate all the judges who have been elected. Given the results of the election, I am sure they will fully and effectively fulfil their mandate at the Court.

Secondly, I wanted to ensure that it is recorded in the verbatim records that throughout the election there were difficulties, that my delegation requested the Legal Counsel to come and give an accurate interpretation of the rules and that the Legal Counsel did not come.

Thirdly, I would like to point out that, in the last round of elections, the list from which the General Assembly worked was not the same as in the Security Council, in that in the meantime one candidate had withdrawn, which meant that it was different from the list that the Security Council used for its own vote. According to the rules, we should have adjourned the meeting to enable the Security Council to have the same list for the election, and, as that was not the case, I must express great regret. I would like all those points to appear in the verbatim record, so that in the future we avoid the difficulties that occurred during this vote.

Once again, my delegation would like to congratulate the judges who have been elected and wish them much success in carrying out their function as judges of the Court.

The meeting rose at 6.10 p.m.